

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MUHAMAD EHAB SABRA,

Petitioner,

v.

NEIL CLARK,

Respondent.

CASE NO. C06-1832-RSL-JPD

ORDER DENYING PETITIONER'S
MOTION FOR IMMEDIATE STAY
OF DEPORTATION

Petitioner Muhamad Ehab Sabra is a native and citizen of Israel who is being detained by U.S. Immigration and Customs Enforcement ("ICE") at the Northwest Detention Center in Tacoma, Washington. On December 27, 2006, petitioner, proceeding pro se, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging the lawfulness of his detention pursuant to *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). Petitioner alleges, *inter alia*, that his detention is unlawful because ICE has no statutory authority to indefinitely detain him, and because his removal cannot be effectuated because he has been granted withholding of removal by the Immigration Court. Petitioner also filed a motion for stay of deportation, seeking to stay his removal from the United States. Although petitioner asserts that there is no "reasonable expectation" that he will be deported because he

1 has been granted withholding of removal, he claims that “Neil Clark has a pattern and policy of
2 holding persons granted withholding of removal and sending those persons granted withholding
3 of removal to other countries not sanctioned by any court of law.” (Dkt. #1 at 3). It is therefore

4 ORDERED:

5 (1) Petitioner’s motion for a stay of deportation is DENIED. The standard of review for
6 a stay of removal is set forth in *Abassi v. INS*, 143 F.3d 513 (9th Cir. 1998); *see also Andreiu v.*
7 *Ashcroft*, 253 F.3d 477, 483 (9th Cir. 2001) (en banc) (concluding that § 1252(f)(2) does not
8 limit the power of federal courts to grant a stay of removal). Under *Abassi*, petitioner must
9 show either: (1) the probability of success on the merits plus the possibility of irreparable harm,
10 or (2) that serious legal questions are raised and the balance of hardships tips in petitioners
11 favor. *Abassi*, 143 F.3d at 514. The Court finds that petitioner meets neither prong of the
12 *Abassi* test.

13
14 The post-removal-detention statute, INA § 241(a), 8 U.S.C. § 1231(a), provides for the
15 mandatory detention of aliens awaiting removal from the United States for an initial period of
16 three months. This three months may be followed by an additional three months discretionary
17 detention during which detention remains presumptively valid. *Zadvydas v. Davis*, 533 U.S. 678,
18 121 S. Ct. 2491, 2505, 150 L. Ed. 2d 653 (2001). In *Zadvydas*, the Supreme Court explained that
19 after this six-month period, the alien is eligible for conditional release upon demonstrating that
20 there is “no significant likelihood of removal in the reasonably foreseeable future.” *Id.* The
21 petitioner has the burden of coming forward with “good reason to believe there is no significant
22 likelihood of removal in the reasonably foreseeable future.” *Id.* Then the burden shifts to
23 respondents to produce evidence which could rebut petitioner’s showing. *Id.*

Robert S. Lasnik
Robert S. Lasnik
United States District Judge

1 Recommended for Entry
2 this 4th of January, 2007.

3 s/James P. Donohue

4 JAMES P. DONOHUE

United States Magistrate Judge